

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

In re **SEARCH OF ACE GREASE SERVICE,**
9011 State Route 163, Millstadt, IL 62260

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Case No. **06-M-6064-CJP**

ORDER

PROUD, Magistrate Judge:

Michael Kostelac, manager of Ace Grease Service, a family-owned business, is before the Court seeking to unseal the affidavit underlying a search warrant issued July 14, 2006, authorizing the Environmental Protection Agency (EPA) to search Ace Grease Service (9011 State Route 163, Millstadt, Illinois) primarily for documentary evidence related to the corporate structure and the collection and disposition of grease. Kostelac has submitted a written memorandum in support of his motion, and he has also moved for oral argument. Kostelac asserts that he needs access to the affidavit in order to make decisions related to civil matters, to prepare for any governmental action, for pre-indictment negotiations, to protect his business interests, to present a defense to the media, to prepare a civil rights action and to prepare a motion for the return of his property.

The government has now filed a response, indicating contesting Kostelac's motion is futile as Kostelac already has possession of an identical Application and Affidavit for Search Warrant that was used to obtain a search warrant for an Ace Grease property in the Western District of Missouri. Therefore, the government also moves to unseal the affidavit used to obtain the search warrant issued in this district.

The Court is very troubled that Special Assistant U.S. Attorney Anne Rauch apparently turned over the sealed affidavit used to obtain the search warrant in the Western District of Missouri without seeking leave of Court, but that issue falls within the prerogative of the U.S. District Court for the Western District of Missouri. In any event, the U.S. Attorney's Office in this district has conceded the subject motion.

IT IS THEREFORE ORDERED that the subject motions to unseal the affidavit used to support the July 14, 2006, search warrant of Ace Grease Service, 9011 State Route 163, Millstadt, IL 62260, are **GRANTED**. The Clerk of Court shall forward a copy of the affidavit to counsel for movant Kostelac, Crystal G. Lovett-Tibbs.

IT IS SO ORDERED.

DATED: April 13, 2007

s/ Clifford J. Proud
CLIFFORD J. PROUD
U. S. MAGISTRATE JUDGE